



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0047; Notice 1]

Cooper Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper Tire), has determined that certain Cooper CS5 Grant Touring and Cooper Evolution Tour replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper Tire filed a noncompliance report dated April 28, 2021, and subsequently, Cooper Tire petitioned NHTSA on May 12, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Cooper Tire's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655-0547.

SUPPLEMENTARY INFORMATION:

I. Overview:

Cooper Tire has determined that certain Cooper CS5 Grand Touring and Cooper Evolution Tour replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). Cooper Tire filed a noncompliance report dated April 28, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper Tire subsequently petitioned NHTSA on May 12, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Cooper Tire's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved:

Approximately 294 Cooper CS5 Grand Touring, size 225/50R18, and Cooper Evolution Tour, size 225/60R16, replacement passenger car tires, manufactured between February 14, 2021, and March 27, 2021, are potentially involved.

III. Noncompliance:

Cooper Tire explains that the noncompliance is that the subject tires were molded with an upside down and backwards serial week and year on the outboard sidewall as required by paragraph S5.5.1(b) of FMVSS No. 139.

IV. Rule Requirements:

Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition.

- Each tire must be labeled with the tire identification number required by 49 CFR part 574, which includes the date code, on the intended outboard sidewall of the tire.

V. Summary of Cooper Tire's Petition:

The following views and arguments presented in this section, "V. Summary of Cooper Tire's Petition," are the views and arguments provided by Cooper Tire. They have not been evaluated by the Agency and do not reflect the views of the Agency. Cooper Tire describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Cooper Tire submitted the following reasoning:

1. The tires subject to this petition, on their outboard side only, were molded with an upside down and backwards DOT serial week and year. The serial number stampings should read: DOT U9 X3 1 LP 0721 and UP 78 1CW 1221. The outboard side, which includes the date code, was molded with the date code information oriented incorrectly upside down and backwards, which resulted in the characters being out of proper sequence.
2. Cooper contends that the 294 tires subject to this petition meet and/or exceed all performance requirements and all other labeling markings as required by FMVSS No. 139.
3. Furthermore, Cooper Tire says that is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject tires involved in this petition.
4. Cooper Tire believes that the upside down and backward date code will not cause confusion for the consumer or dealer that is selecting and mounting the tire, as the error is quite obvious, and there is no logical reading or interpretation of the date code

- in its upside down and backward position. Cooper Tire also believes that consumers and dealers will easily be able to see the issue and correctly identify the date code.
5. Cooper believes the following NHTSA statements, taken from another petition, apply to its petition:: “The purpose of the date code is to identify a tire so that, if necessary, the appropriate action can be taken in the interest of public safety—such as a safety recall notice.” *See* Bridgestone/Firestone, Inc., 64 FR 29,080 (May 28, 1999); *see also* Cooper Tire & Rubber Company, 68 FR 16,115 (April 2, 2003). Furthermore, Cooper feels the following NHTSA statement applies to its petition, “[t]he agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the ability of the tire manufacturer to identify the tires in the event of recall.” *See* Bridgestone/Firestone, Inc., 66 FR 45,076 (Aug. 27, 2001).
 6. Cooper also stated that NHTSA has granted petitions and found that TIN noncompliance is inconsequential to safety in cases where the TIN is out of sequence or mislabeled. *See*, Bridgestone/Firestone North America Tire, LLC, 71 FR 4396 (Jan. 26, 2006) (granting petition where date code was missing because manufacturer could still identify and recall the tires); Cooper Tire & Rubber Company, 68 FR 16,115 (April 2, 2003) (granting petition where tires were labeled with wrong plant code, because “the tires have a unique DOT identification”); Bridgestone/Firestone, Inc., 66 FR 45,076 (Aug. 27, 2001) (granting petition where the date code was labeled incorrectly, because “the information included on the tire identification label and the manufacturer’s tire production records is sufficient to ensure that these tires can be identified in the event of a recall”); Bridgestone/Firestone, Inc., 64 FR 29,080 (May 28, 1999) (granting petition where the wrong year was marked in date code on the tires); Cooper Tire & Rubber Company; 63 FR 29,059 (May 27, 1998) (granting petition where date code was missing where tires had a unique TIN for recall

purposes); Bridgestone/Firestone, Inc., 60 FR 57,617 (Nov. 16, 1995) (granting petition where date code was out of sequence); Uniroyal Goodrich Tire Company, 59 FR 64,232 (Dec. 13, 1994) (granting petition where week and year were mislabeled on tires).

Cooper Tire concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Cooper Tire no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper Tire notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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